

In the Matter of Merchant Mariner's Document No. Z-366335
Issued to: BOBBY G. THOMAS

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

562

BOBBY G. THOMAS

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 25 January, 1952, an Examiner of the United States Coast Guard at Baltimore, Maryland, revoked Merchant Mariner's Document No. Z-366335 issued to Bobby G. Thomas upon finding him guilty of misconduct based upon one specification alleging in substance that while serving as messman on board the American SS TWIN FALLS VICTORY under authority of the document above described, on or about 16 March, 1951, he wrongfully had in his possession a quantity of narcotics, to wit, Cocaine Hydrochloride and a morphine compound.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by an attorney of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and the specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and the Investigating Officer introduced in evidence a Record of Trial of Bobby G. Thomas by a General Provost Court, at Yokohama, Honshu, Japan, on 3 April, 1951. Appellant offered nothing in his defense.

At the conclusion of the hearing, having considered the Record of Trial and given both parties an opportunity to submit further information relating to the case, the Examiner announced his findings and concluded that the charge had been proved by plea and entered the order revoking Appellant's Merchant Mariner's Document No. Z-366335 and all other licenses, certificates of service and documents held by Appellant.

From that order, this appeal has been taken, and it is urged that (1) Appellant had obtained the cocaine and morphine compound to remedy a headache and toothache; (2) he has served the sentence imposed by the General Provost Court; (3) he did not use the drugs; and (4) he desires another chance to resume his service at sea.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 16 March, 1951, Appellant was serving as messman on board the American SS TWIN FALLS VICTORY and acting under authority of his Merchant Mariner's Document No. Z-366335. At that time, said vessel was in the port of Yokohama, Japan.

Appellant was apprehended while passing through a check point at North Pier, 2d Transportation Major Port, Yokohama, Japan, and there were found on his person a small bottle and a paper packet which upon analysis proved to be, respectively, cocaine hydrochloride and a morphine compound.

Before the Provost Court, Appellant explained his possession of the drugs, that he "just wanted to see what action and effect it would have on a person using it and so I wanted to see what the effect was."

OPINION

The explanations given by Appellant at the time of his arrest in Japan and on this appeal are inconsistent, and cannot be reconciled.

I am not favorably impressed with any of the points raised on this appeal, and agree with the Examiner's Opinion; except insofar as it may be interpreted to limit an offense involving narcotics to "use" alone. I have consistently held that any association with narcotics and drugs is "misconduct." The offense specifically charged here is "possession"; and whether his first or later explanation is the truth, the fact remains that his possession and intended use of the drugs made him a definite menace to the safety of his vessel, his shipmates - and himself.

ORDER

The Order of the Examiner dated at Baltimore, Maryland, on 25 January, 1952, is AFFIRMED.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 16th day of April, 1952.